

Washington, Friday, November 29, 1940

# Rules, Regulations, Orders

# TITLE 7-AGRICULTURE

# CHAPTER IX—SURPLUS MARKETING ADMINISTRATION

[Order No. 52]

PART 952—MILK IN THE SHREVEPORT, LOUISIANA, MARKETING AREA

## MARKETING ORDER

	Alamana and Ottoball
Sec.	
952.0	Findings.
952.1	Definitions.
952.2	Market administrator.
952.3	Reports of handlers.
952.4	Classification of milk.
952.5	Minimum prices.
952.6	Handlers who are also producers.
952.7	Computation and announcement uniform prices to producers.
952.8	Time and method of payment for milk.
952.9	Expense of administration.
952.10	Effective time, suspension, or term

Whereas under the terms and provisions of Public Act No. 10, 73d Congress. as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas under the terms and provisions of said act, the Secretary of Agriculture is empowered to issue orders applicable to processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of section 8c, such orders to regulate only such handling of such agricultural commodity or product thereof as is in the current of interstate or foreign commerce or which directly

burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas the Secretary, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of milk in the Shreveport, Louisiana, marketing area would tend to effectuate the declared policy of the act, gave, on August 9, 1940, notice of a hearing, which hearing was held on August 26 and 27, 1940, at Shreveport, Louisiana, at which all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and proposed order; and

Whereas after said hearing and after the tentative approval of a marketing agreement by the Secretary on October 15, 1940, handlers of more than fifty (50) percent of the volume of milk covered by this order, which is marketed within the Shreveport, Louisiana, marketing area, refused or failed to sign such tentatively approved marketing agreement; and

Whereas the Secretary determined on the 15th day of November 1940, said determination being approved by the President of the United States on the 18th day of November 1940, that said refusal or failure to sign said tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of the act and that the issuance of this order is the only practical means pursuant to such policy of advancing the interests of producers of milk in said area and is approved or favored by more than two-thirds of the producers who participated in a referendum conducted by the Secretary and who, during the month of July 1940 (said month having been designated by the Secretary to be a representative period), were engaged in the production of milk for sale in said marketing area; and

Whereas the provision of the order providing for the payment to all producers delivering milk to the same handler of uniform prices for all milk delivered by them is approved or favored by at least three-fourths of the producers who par-

CONTENTS	
RULES, REGULATIONS, ORDE	RS
TITLE 7—AGRICULTURE: Surplus Marketing Administration: Shreveport, La., Marketing Area, milk-handling regulations	Page 4701
TITLE 8—ALIENS AND CITIZENSHIP: Immigration and Naturalization Service: Ports of entry for aliens arriv- ing by aircraft: Buffalo Launch Club seaplane base designated, Buffalo Marine Airport discontin-	
TITLE 16—COMMERCIAL PRACTICES: Federal Trade Commission: Cease and desist orders: Eastern Premium House,	4705
Gold Star Novelty House NOTICES	4707 4706
Department of Agriculture:	

ued	4700
TITLE 16—COMMERCIAL PRACTICES:	
Federal Trade Commission:	
Cease and desist orders:	
Eastern Premium House,	
Inc	4707
Gold Star Novelty House	
Gold Star Noverty House	4100
NOTICES	
Department of Agriculture:	
Surplus Marketing Administra-	
tion:	
Shreveport, La., Marketing	
Area, handling of milk:	
Base period for execution of	
agreement	4720
Determination with respect	
to regulatory order	4719
Department of the Interior:	
Bituminous Coal Division:	
Carrier and Son, et al., order	
granting temporary re-	
lief	4714
Dawson Coal Co., hearing	4716
District Board 7, order of con-	
solidation	4715
District Board 14, order cor-	7110
recting caption	4715
Hearings and temporary re-	2110
lief orders:	
District Board 2	4713
District Board 13	4710
	4707
District Board 23	4101
Jensen Coal Co., hearing, con-	
solidated hearing, tempo-	4000
rary relief order	4709

(Continued on next page)

<sup>15</sup> F.R. 2808.

<sup>&</sup>lt;sup>2</sup> See page 4719.



Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Com-

mittee, approved by the President.
The Administrative Committee consists of

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CONTENTS-Continued

Department of the Interior-Con.	Page
Bituminous Coal Division—Con.	
Lightbody Coal Co., order	
denying application for	
exemption	4716
Memorandum opinions and	
orders concerning tempo-	
rary relief:	manage i
Dawson Coal Co	4716
District Board 15	4714
Bureau of Reclamation:	
Lands for lease, advertise-	
ments:	4840
Montana, Marias Project	4716
North Dakota, Bowman	4770
Reservoir Site	4719
Federal Trade Commission:	
Orders appointing trial exam-	
iners, etc.:	4000
Allred Brothers Candy Co	4720
Cumberland Candy Co., and	4721
Dixie Candy Co	4721
H & D Sales Co	4720
McAfee Candy Co., Liberty	4720
Candy Co	4721
Tarlton, J. T., Candy Co	4721
Williams Candy Co	4721
Williams Candy Co	4121

ticipated in a referendum conducted by the Secretary and who, during the month of July 1940 (said month having been determined by the Secretary to be a representative period), were engaged in the production of milk for sale in said marketing area, said approval being separate and apart from the approval of producers set forth above; and

Whereas the Secretary has found and proclaimed the period from August 1922-July 1929 to be the base period to be used in connection with the ascertainment of the purchasing power of milk handled in the Shreveport, Louisiana, marketing area; and

expenses which the market administrator will necessarily incur during any twelvemonth period of time for the maintenance and functioning of such agency for the administration of this order will be approximately \$8,500 and that the payment by each handler of 4 cents per hundredweight on all milk received from producers and new producers is a proper maximum pro rata share of such expenses; and

Whereas it is hereby declared that an emergency exists in the handling of milk in the aforesaid area and a shorter period of notice than 3 days is therefore required; and it is therefore determined that the time elapsing between the issuance and effective date of this order is reasonable notice under the circumstances; and

§ 952.0 Findings. Whereas the Secretary finds, upon the evidence introduced at said hearings:

(a) That the portion of the total volume of milk handled in the Shreveport, Louisiana, marketing area, which originates outside the State of Louisiana and such milk as is intermingled therewith. enters the current of, or burdens, obstructs, or affects interstate commerce in milk:

(b) That regulation of the handling of such milk in said area, complementary to the regulation of the handling of all other milk in said area by the Louisiana Milk Commission, is necessary in order, among other things, to obtain uniformity in the regulation of all milk handled in said area:

(c) That the prices calculated to give milk handled in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8e of said act are not reasonable in view of the price of feeds, the available supplies of feed, and other economic conditions which affect the supply of, and demand for, such milk and that the minimum prices set forth in this order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(d) That this order regulates the handling of milk in the same manner as, and is applicable only to, handlers defined in a marketing agreement upon which hearings have been held; and

(e) That orderly marketing conditions for milk flowing into the Shreveport, Louisiana, marketing area are disrupted with a resulting impairment of the purchasing power of milk handled in said marketing area, and that the issuance of this order and all its terms and conditions will tend to effectuate the declared policy of the act:

Now, therefore, the Secretary of Agriculture, pursuant to the authority vested in him by the act, hereby orders that

Whereas the Secretary finds that the Louisiana, marketing area, as is in the current of interstate commerce or as directly burdens, obstructs, or affects interstate commerce shall, from the effective date hereof, be in compliance with the following terms and conditions:\*

> \*§§ 952.0 to 952.10, inclusive, issued under the authority contained in 48 Stat. 31 (1933); 7 U.S.C. 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937); 7 U.S.C. 601 et seq. (Supp. IV. 1938).

> § 952.1 Definitions—(a) Terms. The following terms shall have the following meanings:

- (1) The term "Secretary" means the Secretary of Agriculture of the United States.
- (2) The term "Shreveport, Louisiana. marketing area," hereinafter called the "marketing area," means Ward 4, Ward 5, and the city of Shreveport, including its suburbs Werner Park Subdivision, Pierre Mont Road Subdivision, and Agurs, in Caddo Parish; and Bossier City and Barksdale Field in Bossier Parish: all in the State of Louisiana.
- (3) The term "person" means any individual, partnership, corporation, association, or any other business unit.
- (4) The term "market administrator" means the agency which is described in § 952.2 for the administration hereof.
- (5) The term "delivery period" means the current marketing period from the first to the last day of each month, both inclusive.
- (6) The term "producer" means any person, irrespective of whether such person is also a handler, who, in conformity with the health requirements applicable to milk which is disposed of for consumption as milk in the marketing area, produces milk which is received at a plant approved for the receipt of milk to be disposed of as milk in the marketing area: Provided, That if such producer did not regularly distribute milk in the marketing area or dispose of milk to a handler or to persons within the marketing area during a period of 30 days immediately prior to the effective date hereof, but begins the regular delivery of milk to a handler, he shall be known as a "new producer" for a period beginning with the date of his first delivery and including 2 full calendar months following such first delivery to a handler, after which he shall be known as a "producer."
- (7) The term "handler" means any person who, on his own behalf or on behalf of others, purchases or receives milk from producers, new producers, associations of producers, or other handlers, all, or a portion, of which milk is disposed of as milk in the marketing area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate such handling of milk in the Shreveport, commerce in milk and its products.

<sup>\*</sup>See page 4720.

- (8) The term "cooperative associa-1 tion" means any cooperative association of producers which the Secretary determines (i) to have its entire activities under the control of its members, and (ii) to have and to be exercising full authority in the sale of milk of its members.
- (9) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.
- (10) The term "emergency milk" means milk received by a handler from sources other than producers and new producers under a permit to receive such milk issued to him by the proper health authorities.\*
- § 952.2 Market administrator—(a) Designation. The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.
- (b) Powers. The market administrator shall:
- (1) Administer the terms and provisions hereof: and
- (2) Report to the Secretary complaints of violation of the provisions hereof.
- (c) Duties. The market administrator shall:
- (1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.
- (2) Pay, out of the funds provided by § 952.9, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office.
- (3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate.
- (4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 2 days after the date upon which he is required to perform such acts, has not (i) made reports pursuant to § 952.3, or (ii) made payments pursuant to § 952.8.
- (5) Promptly verify the information contained in the reports submitted by handlers.\*
- § 952.3 Reports of handlers—(a) Submission of reports. Each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator, as follows:
- (1) On or before the 4th day after the end of each delivery period (a) the re- tual plant shrinkage, but not to exceed products of Class III milk by its average

- ceipts of milk at each plant from pro- | 2 percent of the total receipts of milk ducers and new producers, (b) the receipts of milk and milk products at each plant from handlers, (c) the quantity of milk, if any, produced by such handler, (d) the receipts of milk and milk products from any other source, (e) the utilization of all receipts of milk and milk products for the delivery period, and (f) the name and address of each new producer.
- (2) On or before the day emergency milk is received, his intention to receive such milk.
- (3) On or before the 4th day after the end of each delivery period, the receipts of emergency milk, as follows: (i) the quantity of such milk, (ii) the date or dates on which such milk was received during the delivery period, (iii) the plant from which such milk was shipped, (iv) the price per hundredweight paid, or to be paid, for such milk, (v) the utilization of such milk, and (vi) such other information with respect thereto as the market administrator may request.
- (4) On or before the 20th day after the end of each delivery period his producer pay roll, which shall show for each producer and new producer (i) his total delivery of milk with the average butterfat test thereof, (ii) the net amount of the payment to such producer or new producer made pursuant to § 952.8, and (iii) the deductions and charges, if any, made by the handler.
- (b) Verification of reports. Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section and § 952.4 (c), and (2) those facilities which are necessary for the sampling, weighing, and testing of the milk of each producer and new producer.
- § 952.4 Classification of milk—(a) Milk to be classified. All milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section, subject to the provisions of paragraph (c) of this section.
- (b) Classes of utilization. The classes of utilization of milk shall be as follows:
- (1) Class I milk means all milk, including skimmed milk, disposed of as fluid milk, plain or flavored, and all milk not specifically accounted for as Class II milk, Class III milk, and Class IV milk;
- (2) Class II milk means all milk disposed of as cream (for consumption as cream), cottage cheese, and creamed cottage cheese;
- (3) Class III milk means all milk used or disposed of for the manufacture of ice cream and ice cream mix; and
- (4) Class IV milk means any milk specifically accounted for as used to produce a milk product other than those specified in Class II milk and Class III milk, and all milk accounted for as ac-

- from producers and new producers.
- (c) Interhandler and nonhandler sales. Milk, including skimmed milk, disposed of by a handler to another handler, or to a person who is not a handler but who distributes milk or manufactures milk products, shall be classified by the market administrator as Class I milk: Provided, That if a different classification is agreed upon in written reports furnished to the market administrator by the selling handler and the purchaser, the milk, or skim milk, shall be classified according to such reports, subject to verification by the market administrator: And provided further, That in no event shall the amount so reported in any class be greater than the total amount of milk disposed of in such class by the purchaser.
- (d) Computation of milk in each class. For each delivery period, the market administrator shall compute for each handler the hundredweight of milk in each class to which the prices set forth in § 952.5 apply, as follows:
- (1) Determine the total hundredweight of milk received as follows: add into one sum (a) the hundredweight of milk received from producers and new producers. (b) the hundredweight of milk (and milk equivalent of cream converted at the average test of milk received from producers and new producers by the receiving handler) received from other handlers, if any, (c) the hundredweight of milk produced by such handler, if any, (d) the hundredweight of emergency milk, if any, and (e) the hundredweight of milk (and milk equivalent of cream converted at the average test of milk received from producers and new producers by the receiving handler) received from any other source, if any.
- (2) Determine the total hundredweight of Class I milk as follows: (a) convert to quarts the quantity of milk and skim milk disposed of as milk, plain or flavored, and multiply by 0.0215, and (b) if the quantity of milk so computed when added to the quantities of Class II. Class III, and Class IV milk determined pursuant to subparagraphs (3), (4), and (5) of this paragraph is less than the total quantity of milk received, determined in accordance with subparagraph (1) of this paragraph, an amount equal to the difference shall be added to the quantity of milk computed pursuant to (a) of this subparagraph.
- (3) Determine the total hundredweight of Class II milk as follows: (a) multiply the actual weight of each of the several products of Class II milk by its average butterfat test and add together the resulting amounts, (b) divide the total pounds of butterfat thus found by the average test of milk received from producers and new producers, and (c) divide by 100.
- (4) Determine the total hundredweight. of Class III milk as follows: (a) multiply the actual weight of each of the several

sulting amounts, (b) divide the total pounds of butterfat thus found by the average test of milk received from producers and new producers, and (c) divide by 100.

- (5) Determine the hundredweight of Class IV milk as follows: (a) subtract from the total hundredweight of milk received, determined pursuant to subparagraph (1) of this paragraph, the sum of the amounts of milk determined pursuant to subparagraphs (2) (a), (3), and (4) of this paragraph: Provided, That if the quantity of Class IV milk so determined is not accounted for as being used to produce Class IV milk products and as actual plant shrinkage (but not to exceed 2 percent of the total receipts of milk from producers and new producers) the remaining difference shall be added to the quantity of Class I milk, computed pursuant to (a) of subparagraph (2) of this paragraph.
- (6) Determine the total hundredweight of milk of producers and new producers in each class as follows:
- (i) Subtract from the total hundredweight of milk in each class the total hundredweight of milk (and milk equivalent of cream converted at the average test of milk received from producers and new producers by the receiving handler) received from other handlers and used in such class:
- (ii) Subtract pro rata from the total hundredweight of milk in each class the hundredweight of milk produced by the handler:
- (iii) Subtract from the hundredweight of milk in each class the hundredweight of milk (and milk equivalent of cream converted at the average test of milk received from producers and new producers by the receiving handler), except emergency milk, received from sources other than producers and new producers or handlers and used in such class; and
- (iv) Subtract pro rata from the total hundredweight of milk in each class the hundredweight of emergency milk received.
- § 952.5 Minimum prices—(a) Class prices. Except as set forth in paragraph (b) of this section, each handler shall pay at the time and in the manner set forth in § 952.8, on the basis of milk of 4 percent butterfat content, not less than the following prices for milk received at such handler's plant;
- (1) Class I milk-\$2.45 per hundredweight: Provided, That with respect to Class I milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be \$2.00 per hundredweight.
- (2) Class II milk-\$2.00 per hundredweight.
- (3) Class III milk-The price per hundredweight resulting from the following computation by the market administrator: Add 9 cents to the average wholesale

- butterfat test and add together the re- price per pound of 92-score butter at Chicago, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and multiply the resulting sum
  - (4) Class IV milk-The price per hundredweight resulting from the following computation by the market administrator: Multiply by 4 the average wholesale price per pound of 92-score butter at Chicago, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 10 percent thereof.
  - (b) Price for milk disposed of outside the marketing area. The price to be paid by a handler for milk received from producers and new producers and disposed of as Class I milk outside the marketing area, in lieu of the price otherwise applicable pursuant to paragraph (a) of this section, shall be, as ascertained by the market administrator, such price as is being paid for milk of equivalent use to dairy farmers supplying the market iv which such milk was disposed.\*
  - § 952.6 Handlers who are also producers-(a) Application of provisions. No provision hereof shall apply to a handler who is also a producer and who receives no milk from other producers, new producers, and association of producers, or other handlers, except that such handler shall make such reports as the market administrator may request, and shall permit the market administrator to verify such reports.
  - (b) Milk received from producers. In the case of a handler who is also a producer and who received, during the delivery period, milk from producers or new producers, the market administrator, before making the computations set forth in § 952.7 (a), shall (1) exclude the milk received by such handler in each class from other handlers, and (2) exclude from such handler's Class I milk that milk of such handler's own production which was disposed of as certified milk.
  - (c) The market administrator, in computing the value of milk received by a handler, shall consider as Class IV milk any milk or cream received in bulk from a handler who receives no milk from producers or new producers other than that of his own production. If such receiving handler has disposed of such milk or cream as other than Class IV milk, the market administrator shall add to the total value computed for such receiving handler, pursuant to § 952.7 (a), the difference between (a) the value of such milk or cream at the Class IV price and (b) the value computed at the price applicable to the class in which it was
  - § 952.7 Computation and announcement of uniform prices to producers. (a) For each delivery period the market administrator shall compute, subject to the provisions of § 952.6, for each handler the uniform price per hundred-

- weight of milk received by such handler from producers during such delivery period, as follows:
- (1) Multiply the hundredweight of milk in each class, computed pursuant to § 952.4 (d) (6), by the price applicable pursuant to § 952.5 and add together the resulting values of each class: Provided, That if such handler has received milk, (or cream), except emergency milk, from sources other than producers, new producers, or handlers, as referred to in § 952.4 (d) (6) (iii), there shall be added to the value of milk determined for such handler pursuant to this subparagraph an amount computed as follows: multiply the hundredweight of such milk (or milk equivalent of cream) by the difference between the Class IV price and the price applicable to the class in which it was disposed. This proviso, however, shall not apply to milk received from such sources if the handler can prove to the market administrator that such milk was used for purposes which did not violate any regulation issued by the health authorities in the marketing area.
- (2) Subtract, from the sum computed pursuant to subparagraph (1) of this paragraph, an amount determined by multiplying the hundredweight of milk received from new producers by the Class
- (3) If, in the verification of the reports of such handler for previous delivery periods, the market administrator has discovered errors in such reports there shall be added or subtracted, as the case may be, the amount necessary to correct such errors: and
- (4) Divide the amount computed pursuant to sub-paragraph (3) of this paragraph by the hundredweight of milk received from producers, not including new producers. This result shall be known as the uniform price to producers for such delivery period for milk containing 4.0 percent of butterfat.
- (b) On or before the 9th day after the end of each delivery period, the market administrator shall mail to all handlers, and publicly announce, the uniform price for each handler as determined pursuant to this paragraph, and the Class III and Class IV prices for such delivery period.\*
- § 952.8 Time and method of payment for milk. (a) On or before the 22d day of each delivery period, each handler shall pay, with respect to all milk received during the first 10 days of such delivery period, \$1.85 per hundredweight of milk to each producer and \$0.75 per hundredweight of milk to each new producer; on or before the 2d day after each delivery period each handler shall pay, with respect to all milk received from the 11th day to the 20th day, both inclusive, of such delivery period, \$1.85 per hundredweight of milk to each producer and \$0.75 per hundredweight of milk to each new producer.
- (b) On or before the 12th day after the end of each delivery period, each handler shall make payment, subject to the but-

(d) of this section, and less the payments made in accordance with paragraph (a) of this section, for the total value of milk received from producers and new producers during the delivery period, as follows:

(1) To each producer to whom payment is not made pursuant to subparagraph (3) of this paragraph, at not less than the uniform price computed pursuant to § 952.7 (a) for the total hundredweight of milk received from such producer:

(2) To each new producer to whom payment is not made pursuant to subparagraph (3) of this paragraph, at the Class IV price for the total hundredweight of milk received from such new

producer; and

- (3) To a cooperative association for milk which it causes to be delivered to a handler from any producer or new producer with respect to whom the cooperative association certifies to the handler that there is in its possession an unterminated membership agreement or other contract with the cooperative association, which agreement or contract expressly authorizes the cooperative association to collect the amount due such producer or new producer for his milk, and pursuant to which authorization the cooperative association is collecting payment for milk on behalf of such producer or new producer, or expressly assumes such responsibility by some authorized act of the board of directors, or of the membership in accordance with the bylaws of such cooperative association; the total amount of money which such handler is obligated to pay for milk received from all such producers and new producers, calculated as follows: (a) multiply the hundredweight of milk received from all such producers by not less than the uniform price computed pursuant to § 952.7 (a), (b) multiply the hundredweight of milk received from all such new producers by the Class IV price, and (c) add together the resulting amounts: Provided, That such cooperative association guarantees such handler against action by any such producer or new producer for nonpayment, if payment to the cooperative association has been made in accordance with the terms of this order or with the terms of any contract of sale between the cooperative association and such handler not in conflict with the terms of this order.
- (c) Errors in payments. Errors in making any of the payments prescribed in this section shall be corrected not later than the date for making final payments pursuant to paragraph (b) of this section for the delivery period during which such errors are disclosed.
- (d) Butterfat differential. If, during the delivery period, any handler has received from any producer or new producer milk having an average butterfat content other than 4.0 percent, such handler, in making the payments prescribed in paragraph (b) of this section, shall (a) continue in such capacity until of 1926 (Act of May 20, 1926, 44 Stat.

of average butterfat content in milk above 4.0 percent not less than, or shall deduct for each one-tenth of 1 percent of average butterfat content in milk below 4.0 percent not more than, an amount equal to one-fortieth of the price for Class IV milk computed pursuant to § 952.5 (a) (4).

(e) Additional payments. Any handler may make payments to producers, not including new producers, for milk in addition to the payments to be made pursuant to paragraph (b) of this section: Provided, That such additional payments shall be made on a uniform basis to all producers for milk of like grade and quality received by him.\*

§ 952.9 Expense of administration-(a) Payments by handlers. As his prorata share of the expense of the administration hereof, each handler, except those described in § 952.6 (a), shall pay to the market administrator, on or before the 12th day after the end of each delivery period, an amount not exceeding 4 cents per hundredweight, with respect to all milk received by him from producers and new producers, and milk produced by him, during such delivery period, the exact amount to be determined by the market administrator, subject to review by the Secretary

(b) Suits by the market administra-The market administrator may maintain a suit in his own name against any handler for the collection of such handler's prorata share of expense set

forth in this section.\*

§ 952.10 Effective time, suspension, or termination—(a) Effective time. The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to paragraph (b) of this section.

(b) Suspension or termination. The Secretary may suspend or terminate this order or any provision hereof whenever he finds that this order or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

- (c) Continuing power and duty of the market administrator. If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: Provided, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.
- (1) The market administrator, or such person as the Secretary may designate,

terfat differential set forth in paragraph | shall add for each one-tenth of 1 percent | removed by the Secretary, (b) from time to time account for all receipts and disbursements and, when so directed by the Secretary, deliver all funds on hand, together with the books and records of the market administrator or such person to such person as the Secretary shall direct. and (c) if so directed by the Secretary. execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant

> (d) Liquidation after suspension or termination. Upon the suspension or termination of any or all provisions hereof the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.\*

> Now, therefore, Claude R. Wickard, Secretary of Agriculture acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purpose and within the limitations therein contained and not otherwise, hereby executes and issues in duplicate this order, under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of Columbia, on this 28th day of November 1940, and declares this order to be effective on and after the 1st day of December 1940.

CLAUDE R. WICKARD, [SEAL] Secretary of Agriculture.

[F. R. Doc. 40-5194; Filed, November 28, 1940; 11:20 a. m.]

TITLE 8-ALIENS AND CITIZENSHIP

CHAPTER I-IMMIGRATION AND NATURALIZATION SERVICE

[Tenth Supplement to General Order No. C-2]

PART 3-PRIMARY INSPECTION AND DETENTION

PORTS OF ENTRY FOR ALIENS ARRIVING BY AIRCRAFT: BUFFALO LAUNCH CLUB SEA-PLANE BASE, BUFFALO, NEW YORK, DESIG-NATED; BUFFALO MARINE AIRPORT, BUF-FALO, NEW YORK, DISCONTINUED

NOVEMBER 27, 1940.

Pursuant to the authority contained in section 7 (d) of the Air Commerce Act 572; 49 U.S.C. 177 (d)), and section 1 of Reorganization Plan No. V (5 F.R. 2223), the Buffalo Launch Club Seaplane Base, Buffalo, New York, is hereby designated as a temporary port for the entry into the United States of aliens arriving by aircraft. The designation of Buffalo Marine Airport, Buffalo, New York, as a temporary port for the entry into the United States of aliens arriving by aircraft is hereby discontinued.

Paragraph (b), Temporary ports of entry, of § 3.3. Designated ports of entry by aircraft (Rule 3, Subdivision A, Paragraph 3 (b) of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936) is amended as follows:

By inserting Buffalo, New York, Buffalo Launch Club Seaplane Base between Bellingham, Washington, Graham Airport and Burlington, Vermont, Burlington Municipal Airport in the list of temporary ports of entry for aliens arriving by aircraft.

By striking Buffalo, New York, Buffalo Marine Airport from the list of temporary ports of entry for aliens arriving by aircraft.

> ROBERT H. JACKSON, Attorney General.

Approval recommended:

HENRY M. HART, Jr., Special Assistant to the Attorney General

In Charge pro tem Immigration and Naturalization Service

[F. R. Doc. 40-5175; Filed, November 28, 1940; 9:46 a. m.]

# TITLE 16-COMMERCIAL PRACTICES CHAPTER I-FEDERAL TRADE COMMISSION

[Docket No. 3449]

PART 3-DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF GOLD STAR NOVELTY HOUSE

§ 3.99 (b) Using or selling lottery devices - In merchandising. Supplying, etc., in connection with offer, etc., in commerce, of manicure sets, electric lamps, leather wallets, pictures, silverware and chinaware, cosmetics, jewelry, comb and brush sets, razor blades or other articles of merchandise, others with push or pull cards, punchboards or other devices which are to be, or may be, used in the sale or distribution of said merchandise to the public by means of a game of chance, gift enterprise or lottery scheme, prohibited. (Sec. 5, 38 State. 719, as amended by sec. 3. 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Gold Star Novelty House, Docket 3449, November 15, 1940]

§ 3.99 (b) Using or selling lottery devices-In merchandising. Shipping, etc.,

merce, of manicure sets, electric lamps, | leather wallets, pictures, silverware and chinaware, cosmetics, jewelry, comb and brush sets, razor blades or other articles of merchandise, to agents or to distributors, or to members of the public, push or pull cards, punch boards or other devices which are to be, or may be, used in the sale or distribution of said merchandise to the public by means of a game of chance, gift enterprise or lottery scheme, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Gold Star Novelty House, Docket 3449, November 15, 1940]

§ 3.99 (b) Using or selling lottery devices-In merchandising. Selling, etc., in connection with offer, etc., in commerce, of manicure sets, electric lamps, leather wallets, pictures, silverware and chinaware, cosmetics, jewelry, comb and brush sets, razor blades or other articles of merchandise, any merchandise by the use of push or pull cards, punch boards or other lottery devices, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Gold Star Novelty House, Docket 3449, November 15, 19401

§ 3.6 (i) Advertising falsely or misleadingly-Free goods or service: § 3.6 (ee) Advertising falsely or misleadingly—Terms and conditions: § 3.80 (i) Securing agents or representatives falsely or misleadingly-Terms and conditions. Using, in connection with offer, etc., in commerce, of manicure sets, electric lamps, leather wallets, pictures, silverware and chinaware, cosmetics, jewelry, comb and brush sets, razor blades or other articles of merchandise, the term 'no cost" or any other term or terms of similar import or meaning to describe or refer to merchandise offered as compensation for distributing respondent's merchandise, unless all of the terms and conditions of said offer are clearly and unequivocally stated in equal conspicuousness and in immediate connection or conjunction with the term "no cost" or any other term or terms of similar import or meaning and there is no deception as to the price, quality, character or any other feature of such merchandise or as to the services to be performed in connection with obtaining such merchandise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Gold Star Novelty House, Docket 3449, November 15, 19401

§ 3.6 (a) (10.3) Advertising falsely or misleadingly-Business status, advantages or connections of advertiser-Government registration. Representing, in connection with offer, etc., in commerce, of manicure sets, electric lamps, leather wallets, pictures, silverware and chinaware, cosmetics, jewelry, comb and brush sets, razor blades or other articles of merchandise, that respondent's business is registered under the laws of the United in connection with offer, etc., in com- States, prohibited. (Sec. 5, 38 Stat. 719,

as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Gold Star Novelty House, Docket 3449, November 15, 1940]

In the Matter of Louis Farben, Individually and Trading as Gold Star Novelty House

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of November, A. D. 1940.

This proceeding having been heard ' by the Federal Trade Commission upon the complaint of the Commission (respondent having filed no answer thereto), testimony and other evidence taken before Randolph Preston, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint (respondent having offered no proof in opposition thereto), brief filed herein by counsel for the Commission (respondent not having filed brief and oral argument having been waived); and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Louis Farben, individually and trading as Gold Star Novelty House, his representatives, agents and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of manicure sets, electric lamps, leather wallets, pictures, silverware and chinaware, cosmetics, jewelry, comb and brush sets, razor blades or any other articles of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others push or pull cards, punchboards, or other devices which are to be used or may be used in the sale or distribution of said merchandise to the public by means of a game of chance, gift enterprise or lottery scheme;

(2) Shipping, mailing, or transporting to agents or to distributors, or to members of the public push or pull cards, punchboards or other devices which are to be used or may be used in the sale or distribution of said merchandise to the public by means of a game of chance, gift enterprise or lottery scheme;

(3) Selling or otherwise disposing of any merchandise by the use of push or pull cards, punch boards or other lottery devices:

(4) Using the term "no cost" or any other term or terms of similar import or meaning to describe or refer to merchandise offered as compensation for distributing respondent's merchandise unless all of the terms and conditions of said offer are clearly and unequivocally stated in equal conspicuousness and in

<sup>13</sup> F.R. 2709.

with the term "no cost" or any other term or terms of similar import or meaning and there is no deception as to the price, quality, character or any other feature of such merchandise or as to the services to be performed in connection with obtaining such merchandise;

(5) Representing that respondent's business is registered under the laws of

the United States.

It is further ordered. That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 40-5183; Filed, November 28, 1940; 11:11 a. m.

[Docket No. 3504]

PART 3-DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF EASTERN PREMIUM HOUSE, INC.

§ 3.99 (b) Using or selling lottery devices-In merchandising. Supplying, etc., in connection with offer, etc., in commerce, of clocks, watches, dolls, chinaware, and various other products and merchandise, other with push or pull cards, punchboards or other devices which are to be, or may be, used in the sale or distribution of said merchandise to the public by means of a game of chance, gift enterprise or lottery scheme. prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C. Supp. IV, sec. 45b) [Cease and desist order, Eastern Premium House, Inc., Docket 3504, November 15, 1940]

§ 3.99 (b) Using or selling lottery devices-In merchandising. Shipping, etc., in connection with offer, etc., in commerce, of clocks, watches, dolls, chinaware, and various other products and merchandise, to agents or to distributors, or to members of the public, push or pull cards, punchboards or other devices which are to be, or may be, used in the sale or distribution of said merchandise to the public by means of a game of chance, gift enterprise or lottery scheme, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C. Supp. IV, sec. 45b. [Cease and desist order, Eastern Premium House, Inc., Docket 3504, November 15, 1940]

§ 3.99 (b) Using or selling lottery devices-In merchandising. Selling, etc., in connection with offer, etc., in commerce, of clocks, watches, dolls, chinaware, and various other products and merchandise, any merchandise by the use of push or pull cards, punchboards or other lottery devices, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) |

mium House, Inc., Docket 3504, November 15, 1940]

§ 3.6 (i) Advertising falsely or misleadingly-Free goods or service: § 3.6 (ee) Advertising falsely or misleadingly-Terms and conditions: § 3.80 (i) Securing agents or representatives falsely or misleadingly - Terms and conditions. Using, in connection with offer, etc., in commerce, of clocks, watches, dolls, chinaware, and various other products and merchandise, the terms "free" or "without cost", or any other terms of similar import or meaning, to describe or refer to merchandise offered as compensation for distributing respondent's merchandise, unless all of the terms and conditions of such offer are clearly and unequivocally stated in equal conspicuousness and in immediate connection or conjunction with the terms "free" or "without cost" or any other terms of similar import or meaning and there is no deception as to the price, quality, character or any other feature of such merchandise or as to the services to be performed in connection with obtaining such merchandise, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) Cease and desist order, Eastern Premium House, Inc., Docket 3504, November 15.

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of November, A. D. 1940.

This proceeding having been heard 1 by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Randolph Preston, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint (respondent having offered no proof in opposition thereto), brief filed herein by counsel for the Commission (respondent not having filed brief and oral argument having been waived), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered. That the respondent. Eastern Premium House, Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of clocks, watches, dolls, chinaware, aluminum ware, jewelry, cosmetics, cigarette cases and lighters, flashlights, kitchenware, bedding, clothing, tableware, lamps, dresser sets, smoking stands, knives, watches, binoculars, or any other merchandise in commerce as merce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others push or pull cards,

immediate connection or conjunction | [Cease and desist order, Eastern Pre- | punchboards, or other devices which are to be used or may be used in the sale or distribution of said merchandise to the public by means of a game of chance, gift enterprise or lottery scheme;

(2) Shipping, mailing, or transporting to agents or to distributors, or to members of the public push or pull cards, punchboards or other devices which are to be used or may be used in the sale or distribution of said merchandise to the public by means of a game of chance. gift enterprise or lottery scheme;

(3) Selling or otherwise disposing of any merchandise by the use of push or pull cards, punchboards or other lottery

devices:

(4) Using the terms "free" or "without cost" or any other terms of similar import or meaning to describe or refer to merchandise offered as compensation for distributing respondent's merchandise, unless all of the terms and conditions of such offer are clearly and unequivocally stated in equal conspicuousness and in immediate connection or conjunction with the terms "free" or "without cost" or any other terms of similar import or meaning and there is no deception as to the price, quality, character or any other feature of such merchandise or as to the services to be performed in connection with obtaining such merchandise.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON. Secretary.

[F. R. Doc. 40-5184; Filed, November 28, 1940; 11:11 a. m.1

#### Notices

# DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket Nos. A-76, A-160, A-161, A-162]

PETITIONS OF DISTRICT BOARD 23 FOR RE-VISION OF MINIMUM PRICES APPLICABLE TO COALS PRODUCED BY THE BUCODA COAL MINING COMPANY AND THE STRAIN COAL COMPANY: FOR ESTABLISHMENT OF CLAS-SIFICATIONS AND MINIMUM PRICES APPLI-CABLE TO "REJECTS"; FOR REVISION OF EFFECTIVE MINIMUM PRICES APPLICABLE TO NORTHWESTERN IMPROVEMENT COM-PANY: FOR REVISION OF EFFECTIVE MINI-MUM PRICES APPLICABLE TO JONESVILLE COAL COMPANY, BLUE FLAME COAL COM-PANY AND LAKE COAL COMPANY

NOTICE OF AND ORDER FOR HEARINGS AND ORDER GRANTING, IN PART, TEMPORARY

Original petitions, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the abovenamed party;

<sup>13</sup> F.R. 2710.

It is ordered. That a hearing in the above-entitled matters under the applicable provisions of said Act and the rules of the Division be held on January 21, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered. That W. A. Shipman or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matters. The officers so designated to preside at such hearings are hereby authorized to conduct said hearings, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiries, to continue said hearings from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearings 'is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 16, 1941.

All persons are hereby notified that the hearing in the above-entitled matters and any orders entered therein, may concern, in addition to the matters specifically alleged in the petitions, other matters necessarily incidental and related thereto, which may be raised by amendment to the petitions, petitions of intervention or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matters concerned herewith are in regard to (1) the matter of modification of the Effective Minimum Price Schedule for District No. 23 applicable to Subdistrict "C" to allow the minimum f. o. b. mine price for all sizes of coal produced by the Bucoda Coal Mining Company, Subdistrict "C", when sold to the Union Pacific Railroad Company, for locomotive fuel and other uses, to be 225 cents per net ton; (2) the matter

mum Price Schedule for District No. 23 to provide prices for coal of the William Strain Coal Company delivered from its Newcastle Mine equal to prices for coal of other mines in the Newcastle field of Renton subdistrict: (3) the matter of revision of the Effective Minimum Price Schedule for District No. 23 to provide classifications and minimum prices for "rejects" produced by James Bolde (Carbon Fuel Company) Subdistrict "G" and Strain Coal Company, Subdistrict "F": (4) the matter of modification of the Effective Minimum Price Schedule for District No. 23 applicable to Subdistrict "A" to allow the minimum f. o. b. mine price for all sizes of coal produced by the Northwestern Improvement Company when sold to the Northern Pacific Railroad Company for locomotive fuel and other uses to be 260 cents per net ton: (5) the matter of revision of the Effective Minimum Price Schedule for District No. 23 to provide that the minimum prices applicable to the coals from Subdistrict "F" for truck shipment shall be the same as those applicable to Subdistrict "F" for rail shipment and to provide for a 25 cent increase for such coals when shipped from the Renton (as distinguished from the Newcastle) plant of the Strain Coal Company's Newcastle Mine: (6) the matter of revision of the Effective Minimum Price Schedule for District No. 23 to provide for changes in the effective minimum prices applicable to Jonesville Coal Company, Blue Flame Coal Company and Lake Coal Company; (7) the matter of revision of the Effective Minimum Price Schedule for District No. 23 for truck shipments to provide for the establishment of a price of 300 cents per net ton for coal produced by the Palmer Coking Company; Danville Mine, for sale into Market Area 248 for the manufacture of artificial gas.

The Director having considered such petition and a reasonable showing of necessity for temporary relief having been made in regard to Items 1–6 above;

It is ordered, That pending the final disposition of the petition in the above-entitled matter, the temporary relief prayed for be and the same hereby is granted, in part, as set forth in Temporary Supplement No. 3 to the Effective Minimum Price Schedule for District No. 23 attached hereto and made a part hereof.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division and proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 25, 1940.

[SEAL] H. A. GRAY,

Director.

of modification of the Effective Minimum Price Schedule for District No. 23 to provide prices for coal of the William DISTRICT No. 23

Note: The material in this Supplement is to be read in the light of the instructions, exceptions, and other provisions contained in Price Schedule No. 1 for this District and Supplements thereto. Effective as of November 25, 1940 and continuing until further order of the Director.

The following temporary changes shall be made in Price Schedule No. 1 for District No. 23:

Insert the following Price Instructions and Exceptions:

14. Reject coal, that is, bony coal, rock with coal attached, and all rejects from the preparation plant, which shall contain more than 35% Ash, when produced at the Bayne No. 3 Mine (Mine Index No. 2) of Code member James Boldo (Carbon Fuel Company), shall have a minimum f. o. b. mine price of 105 cents per net ton for shipment via rail or truck to Aberdeen, Chehalis, Everett or Tacoma, Washington.

15. Reject coal, that is, outcrop coal and refuse from the preparation plant, which shall contain not less than 28% Ash, when produced at the New Castle Mine (Mine Index No. 22) of Code member William Strain (Strain Coal Company), shall have a minimum f. o. b. mine price of 250 cents per net ton for truck shipment to Tacoma, Washington.

Sub-District "C" S. W. Washington, insert the following note:

Prices listed for Size Group No. 26 for coals from Tonto #1 Mine (Mine Index No. 34) of Code member Bucoda Coal Mining Company when sold to the Union Pacific R. R. Co., shall apply for Locomotive Fuel and other uses.

Delete footnote (a) at bottom of this page and insert the following in lieu thereof:

(a) Sub-District "A" prices in Size Group 26 apply for mines of the Northwestern Improvement Company only, and when such coal is sold to the Northern Pacific Railway Company, shall apply for all uses.

Sub-District "A", Roslyn, the following price changes shall be made:

Jonesville Coal Company, Jonesville Mines Nos. 1, 2 and 3 price for Size Group No. 21 shall read 325 instead of 315.

Jonesville Coal Company, Jonesville Mines Nos. 1, 2 and 3 price for Size Group No. 23 shall read 325 instead of 295.

Harley M. Toney, (Blue Flame Coal Co.), Blue Flame Mine, price for Size Group No. 21 shall read 315 instead of 325.

Harley M. Toney, (Blue Flame Coal Co.), Blue Flame Mine, price for Size Group No. 23 shall read 295 instead of 325.

Lake Coal Company (Albert Kauzlarich) Lake (Right) Mine, price for Size Group 21 shall read 315 instead of 325.

Lake Coal Company (Albert Kauzlarich) Lake (Right) Mine, price for Size Group No. 23 shall read 295 instead of 325.

Prices listed for Sub-District "F", Renton, in Price Schedule No. 1 and Supplements A and 2 thereof, shall be deleted and the following inserted in lieu thereof:

		-	Size groups												
Code member index	Mine	County	2	3	4	5	7.	9	10	11	12	14	15	16	24
B & R Company (Joe Baima)	Newcastle	King	465	465	425	425	450	425	400	375	375	335	335	325	150
B & R Company (Joe Baima)	Grand Ridge	King	465	465	425	425	450	425	400	375	375	335	335	325	150
Bianco, Fred (Bianco Coal Mines)	Queen No. 1	King	465	465	425	425	450	425	400	375	375	335	335	325	150
Black Nugget Coal Mine (Frank	Black Nugget	King	465	465	425	425	450	425	400	375	375	335	335	325	150
Lesher).	Gem	King	465	ARE	425	425	450	425	400	375	275	335	335	325	150
Gem Coal Co., Inc.	Superior		465	465	425	425	450	425	400	375	375	335	335	325	150
Harris, L. J. (Harris Coal Co.) Hi-Grade Coal Company (F. H.	Hi-Grade	King	465	465	425	425	450	425	400	375	375	335	335	325	150
	III-OI ado	ALL DIVINI	100	100	1000		- Aller	-	200		100				
Crueger). Kummer Coal Operators Inc	Kummer	King	465	485	425	425	450	425	400	375	375	335	335	325	150
Littlefield, E. G., Executor, E. R.	Cedar Mountain.	King	490												
Peoples Estate.		2000		-					and the	200		and the			
Scalzo, Tony (New Castle King	King	King	465	465	425	425	450	425	400	375	375	335	335	325	150
Coal Co.).	COMP. CO. CO. CO. CO. CO. CO. CO. CO. CO. CO	100	000	-0		12						land.			
New Lake Youngs Coal Co. (Dave	New Lake Young	King	465	465	425	425	450	425	400	375	375	335	335	325	150
Culjak).			DAY.				200						24	172	1700
Pacific Coast Coal Company	New Black Dia-	King	465	465	425	425	450	425	400	375	375	335	335	325	150
	mond (Indian).	Commence of the Commence of th	1							-			-		200
Palmer Coking Coal Co. Inc	Danville	King	465	465	425	425	450	425	400	375	375	335	335	325	150
Springbrook Mining Co. (A. F.	Springbrook	King	465	465	425	425	450	425	400	375	375	335	335	325	100
Plant).		2000	1993	500	000			522	1000	-		mar	hor	nar	101
Spring Glen Coal Co. (Starkovitch,	Spring Glen	King	405	465	425	425	450	425	400	3/0	310	000	000	320	100
Charles H. Jr.).	************	Wilson	465	100	405	VIDE.	150	400	400	are	275	225	995	205	750
Strain, Wm. (Strain Coal Co.)	Newcastle!	King	400	400	40=	420	450	495	400	275	275	225	935	225	150
Tiger Mountain Coal Co	Tiger Mtn	King	400	COL	120	420	400	920	1200	1010	010	000	900	020	Tank

District "F." Renton, and insert the following in lieu thereof:

When coal from the Newcastle Mine of Wm. Strain (Strain Coal Company) is for shipment from the plant at Renton, Wash-ington, the prices listed above for such coal shall be increased 25 cents per net ton.

[F. R. Doc. 40-5170; Filed, November 27, 1940; 11:43 a. m.]

[Docket Nos. A-121, A-123, A-247]

PETITION OF G. B. JENSEN, OPERATING UNDER THE NAME AND STYLE OF JENSEN COAL COMPANY, A CODE MEMBER IN DISTRICT NO. 12, FOR THE MODIFICATION OF THE EFFECTIVE MINIMUM PRICES FOR PETITIONER'S COALS IN SIZE GROUPS Nos. 1 to 5, INCLUSIVE; PETITION OF DISTRICT BOARD NO. 12 CONCERNING ALLEGED ERRORS IN THE MINIMUM PRICES ESTABLISHED FOR COAL OF CER-TAIN CODE MEMBERS IN DISTRICT NO. 12; PETITION OF DISTRICT BOARD NO. 12 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED AND FOR THE REVISION OF CERTAIN PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES

NOTICE OF AND ORDER FOR HEARING AND ORDER CONSOLIDATING FOR HEARING PE-TITIONS IN CERTAIN DOCKETS; ORDER CONCERNING TEMPORARY RELIEF DOCKET NO. A-247

Original petitions, pursuant to the provisions of section 4 II (d) of the Bituminous Coal Act of 1937, having been filed by District Board No. 12 and

Delete the footnote shown under Sub- | and style of Jensen Coal Company, a code member in District No. 12, with the Bituminous Coal Division of the Department of the Interior:

> It is ordered, That the above-entitled matters be consolidated for hearing with the matters in Docket Nos. A-69, A-79, A-86, A-74, and A-75, and that said consolidated hearing be held on December 4, 1940, at 10 a.m. at a hearing room of the Bituminous Coal Division in the Fort Des Moines Hotel, Des Moines, Iowa.

It is further ordered, That D. C. Mc-Curtain or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matters. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearings from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to such petitioners and to any other party herein and to such persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bi-G. B. Jensen operating under the name tuminous Coal Division for proceedings

instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 30, 1940.

The matters concerned herewith are in regard to: Docket No. A-121, the modification of the effective minimum prices established for petitioner's mine (Mine Index No. 15), in District No. 12, in Size Groups Nos. 1 to 5. inclusive: Docket No. A-123, the correction of alleged errors in the minimum prices established for coal of certain code members in District No. 12: Docket No. A-247, the establishment of effective minimum prices for the coals of certain mines, hereinafter referred to in Temporary Schedule A, located in District No. 12, for which coals price classifications and minimum prices have not heretofore been established and for the revision of the price classifications and minimum prices for truck shipments heretofore established for the coals of Frank Denicola, Mine Index No. 142: Faris Brothers Coal Co., Mine Index No. 90; W. L. Gilger, Mine Index No. 32; and Stoker Coal Mine, Mine Index No.

All persons are hereby notified that the hearing in the above-entitled matters and orders entered therein, may concern, in addition to the matters specifically alleged in the original petitions, other matters incidental and related thereto, whether raised by amendment of the petitions, petitions of intervention or otherwise, and all persons are cautioned to be guided in their actions accordingly.

It is further ordered that a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in Docket No. A-247, temporary relief be, and it hereby is, granted as follows: Commencing forthwith, the coals in the schedule hereto annexed marked "Temporary Schedule A," and made part hereof, shall be subject to minimum prices as provided in said Temporary Schedule A.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 20, 1940.

H. A. GRAY, [SEAL] Director.

No. 232-2

TEMPORARY SUPPLEMENT TO SCHEDULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT | ance with the rules and regulations of No. 12

#### FOR TRUCK SHIPMENTS

Note: The material in this Temporary Supplement is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Price Schedule No. 1 for this District and Supplements thereto. Effective forthwith and continuing until further ordered.

Prices in Cents per Net Ton for Shipment Into All Market Areas

Code member index	Mine No.	Group No.	County	- Chunk	Standard lump	. Egg812", 613"	8mall egg 4x 2", 3 x 1 ½"	c Mine run	9 Nut 2 x 114",	2 Dom. stoker 114", 1x 5/6"	Screenings 2",	o Ind. stoker cr. 2",	0x,,016 20
B & F Coal Co. (James F. Robinson).  Barnes Coal Co. (Howard Barnes).  Butcher Creek Coal Co. (James Martin). Cedar Creek Coal Company R. E. Davis). Coal Port Coal Company. Foster Coal Co. (Ben Thomas). Fry. Fred. W. B. Hanght, (Hot Coal Co.) Kendall, Bain & Joe Drake (Bain Kendall). Leavitt, C. L. G. Loherse (Producers Coal Co.). Melcher Coal Company (T. J. Robinson, Jr.). Murphy, Harry N. & E. Coal Co. (Clifford Ellsworth). Pottorff-Wagaman Coal Co. Quinn & Brady (John T. Brady, Jr.). Simpson Coal Co. Tillotson, Terry. Triple D. Coal Co. (Walter Davis).	6722 689 665 670 656 653 671 664 675 688 667 75 666 668 668 664 682 690 655	18	Marion Monroe Warren Marion Marion Monroe Monroe Appanoose Warren Van Buren Marion Marion Marion Marion Warren Marion Warren Warren Warren Marion Warren Warren Marion	305 290 345 300 290 285 310 310 345 300 310 345 300 310 290 310 310 310 310 310	295 280 335 290 300 280 275 300 300 295 300 335 290 300 282 300 300 300 300 300 300 300 300 300 30	285 270 325 280 290 270 265 290 290 285 280 290 290 285 280 290 290 285 280 290 290 290 290 290 290 290 290 290 29	275 260 315 270 280 260 225 280 280 275 280 280 260 225 280 280 280 280 280 280 280 280 280 280	270 270 300 270 270 270 270 270 270 270 270 270 2	270 270 300 270 270 270 270 270 270 270 270 270 2	270 270 270 270 275 270 270 270 270 270	180 160 170 160 200 165 180 170 160	220 220 220 220 220 230 220 275 225 240 230 220 240 220 220 240 220 220 230 240 220 230 240 220 230 230 230 230 230 230 230 230 23	100 100 100 100 100 100 100 100 100 100

[F. R. Doc. 40-5167; Filed, November 27, 1940; 11:41 a. m.]

[Docket No. A-205]

PETITION OF DISTRICT BOARD 13 FOR THE ESTABLISHMENT OF PRICE CLASSIFICA-TIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETO-FORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on December 9, 1940, at 10 o'clock in the forencon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, cor-

respondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accord-

ance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 30, 1940.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter referred to, located in District 13, for which coals price classifications and minimum prices have not heretofore been established.

It is further ordered, That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is, granted as follows: commencing forthwith, the coals referred to in the schedule hereto annexed, marked "Temporary Schedule A," and made part hereof, shall be subject to minimum prices as provided in said Temporary Schedule A.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 25, 1940.

[SEAL] H. A. GRAY, Director.

TEMPORARY SCHEDULE A-TEMPORARY EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 13

### FOR ALL SHIPMENTS EXCEPT TRUCK

Note: The material in this Temporary Schedule A is to be read in the light of the classifications, prices, exceptions, and other provisions contained in Price Schedule No. 1 for this District and Supplements thereto.

Prices F. O. B. Mines for Shipment by Railroad, Applicable for All Uses Except Railroad Locomotive Fuel, Steamship Bunker Fuel, and Blacksmithing

THE REAL PROPERTY.	Mine index No.	Code member	Mine	SD	Seam	Freight origin group
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witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, cor
1 This mine shall have the same prices in size groups 1, 2, 7, 13, 19, 20, 21, 23, and 24, on all price tables as listed for mines with Index Numbers 71-72-73.

2 This mine shall have the same price in size group 12 on all price tables as listed in size group 13 for mines with Index Numbers 9 and 11.

FOR TRUCK SHIPMENTS

Nors: The material in this Temporary Schedule A is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Price Schedule No. 1 for this District and Supplements thereto.

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Oode member index			ALABAMA Ables, Frank Tohnson, W. C.	Ooffey, H. L. (Coffey Coal Company)		rr ) an) n)	Hester, H. B. Ingram-Whitten Coal Company (A. Whitten)	TUSCALOOSA COUNTY  Best & Linebarger Hallmark, J. W. & R. I Jenkins, H. M.	Berson, Jeff Bosbell, Bell Busby, J. H Dody, Currt Dodd, Garfield McGough, Ed Nastin, America (O. J. Tucker) *For sizes included see size group table.

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	Code member index			ALABAMA—Continued WINSTON COUNTY SWINDLE, F. L. (Swindle Coal Co.) Vickery & Brown (James Vickery) Ground	Ringer, B. F. DADE COUNTY THENESEE	Carrick, Baxter GRUNDY COUNTY Shrum, A. P.	Harmah, C. J. HAWILTON COUNTY Rutherford, W. A.	MARION COUNTY Brown & Nortis (C. R. Brown) Floyd, John Early Floyd, John Early Hassler Brothers & C. J. Green (Ross C. Hassler) Jenhuns, W. R. McDowell, Harold McDowell, Harold Rettor, Marrin Rettor, Marrin Rettor, Marrin Redtor, M	Allison, E. L. SEQUATCHE COUNTY	Mosley, Crayton.

[F. R. Doc. 40-5166; Filed, November 27, 1940; 11:40 a. m.]

[Docket No. A-244]

PETITION OF DISTRICT BOARD 2 FOR THE TIONS AND MINIMUM PRICES FOR THE NO. 2 NOT HERETOFORE CLASSIFIED AND ESTABLISHMENT OF PRICE CLASSIFICA-COALS OF CERTAIN MINES IN DISTRICT PRICED

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

tion 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with the An original petition, pursuant to sec-Division by the above-named party;

Records Section in Room 502 will advise It is ordered, That a hearing in the above-entitled matter be held, under the applicable provisions of said Act, and the rules and regulations of the Division, on December 12, 1940, at 10 o'clock a. m. (eastern standard time) in a hearing room of the Bituminous Coal Division, On such day the Chief of the as to the room in which such hearing 734 Fifteenth Street NW., Washington, Ü

It is further ordered, That Charles O. Fowler or any other officer or officers of pose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions priate order in the premises, and to perform all other duties in connection therethe Division duly designated for that puroaths and affirmations, examine witand the recmmendation of an appronesses, compel their attendance, with authorized by law.

mitted as a party to this proceeding may Notice of such hearing is hereby given to all parties herein and to persons or ceedings and eligible to become parties Any person desiring to be adentities having an interest in these proherein.

file a petition of intervention in accord-lotherwise, or which may be necessary II (d) of the Act, setting forth the facts sought. Such petitions of intervention with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is shall be filed with the Bituminous Coal Division on or before December 6, 1940.

minimum prices for the coals of certain The matter concerned herewith is in regard to the establishment of effective mines, hereinafter named, located in District No. 2, for which coals price classifications and minimum prices have not heretofore been established,

All persons are hereby notified that the hearing in the above-entitled matter and any orders therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily may be raised by amendment of the original petition, petitions of interveners, incidental and related thereto.

corollaries to the relief, if any, granted on the basis of said original petition. It is further ordered, That a reasonable been made, pending final disposition of the petition in the above-entitled matwith, the coals referred to in the schedule nexed hereto and made part hereof, shall showing of the necessity therefor having ter, temporary relief be, and it hereby is, be subject to minimum prices as provided granted as follows: Commencing forthmarked "Temporary Supplement", in said schedule.

temporary relief herein granted may be filed pursuant to the rules and regulabefore the Bituminous Coal Division and tion 4 II (d) of the Bituminous Coal Act Notice is hereby given that applications governing practice and procedure tions to stay, terminate or modify the proceedings instituted pursuant to of 1937.

Dated: November 25, 1940. SEAL

H. A. GRAY.

TEMPORARY SUPPLEMENT—TEMPORARY EFFECTIVE MINIMUM PRICES FOR DISTRICT NO.

FOR ALL SHIPMENTS EXCEPT TRUCK

NOTE: The material contained in this Temporary Supplement is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Price Schedule No. 1 for this District and Supplements thereto.

Alphabetical Listing of Code Members Having Railway Loading Facilities, Showing Price Classification by Size Group Numbers

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Freight	group No.	松北成社会社 废金属的存储化社会社会
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Wina nama		Brueeton (Strip) (W).  Armstrong Bros. (Strip).  E. Franklin Coal (Strip).  Edwards (Strip).  Midway (Strip).  Grippo.  Grippo.  Pike.  LaBelle.  Lyue.  Port (River).  Robinson.  Modffitt  Mapel (Strip).  Robinson.  Modffitt  Mapel (Strip).
Code member	edicerolase Ania	Abruzzi, Louis Armstrong Bros. Coal Co East Frankin Coal Co. (H. W. Finley). Edwards, T. L. Five Points Coal Co. (H. W. Finley). Grippo Coal Co. (H. W. Finley). Grippo Coal Co. (H. W. Finley). Hall, C. M. Hallman Coal & Coke Co. Hoffstot, J. G. Ferran-Courtney Co., Inc. Marston Coal Co. Marston Coal Co. Marston Coal Co. Marston Coal Co. Principini, M. (Mrs.) Raccoon Creek Coal Co.
Mine	No.	255 255 255 255 255 255 255 255 255 255

NOTE.—In Price Schedule No. 1, add the mine index numbers in groups shown: Group No. 1: 851, 1224; Group No. 2: 301, 353, 354, 358, 360, 544; Group No. 3: 361; Group No. 4: 357; Group No. 6: 355; Group No. 6: 355; Group No. 6: 355; Group No. 7: 142, 279, 346; Group No. 2: 958.

[Docket No. A-59]

PETITION OF DISTRICT BOARD NO. 15, RE-QUESTING MODIFICATION OF THE SCHED-ULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 15, FOR ALL SHIPMENTS EXCEPT TRUCK, BY AMENDING THE EF-FECTIVE MINIMUM PRICES FOR CODE MEMBERS IN DISTRICT No. 15 ON SHIP-MENTS OF OFF LINE RAILROAD LOCOMO-TIVE FUEL TO THE CHICAGO AND GREAT WESTERN RAILROAD AND CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD

MEMORANDUM OPINION AND ORDER CON-CERNING TEMPORARY RELIEF

The original petition in the aboveentitled matter prays that a temporary order be issued granting the relief requested pending final disposition of the matter.

A final hearing was held in Dockets Nos. A-56, A-59, and A-70, beginning on October 30, 1940, in which all interested parties were afforded an opportunity to participate. There was no evidence introduced in opposition to the granting of the relief requested by petitioner in Docket No. A-59.

Petitioner seeks, in part, the modification of the railroad locomotive fuel prices in order to permit mines in Production Groups Nos. 1, 2, 3 and 4, in District No. 15, to absorb from the minimum prices established on such shipments the division of freight rate applicable thereon provided the maximum absorption shall not exceed 60 cents per

The evidence introduced at the hearing shows that the Chicago and Great Western Railroad has purchased substantial tonnages from the Tiger Mine (Mine Index No. 127) of the Hume Sinclair Coal Mining Company and Reliance Mine (Mine Index No. 116) of the Crowe Coal Company located in Production Group No. 2, and the Bee-Veer Mine (Mine Index No. 13) of the Binkley Mining Company of Missouri located in Production Group No. 3: that for railroad locomotive fuel use, the comparative market values of the District No. 15 coals with the coals of the Fulton-Peoria Subdistrict of District No. 10 are such that District No. 15 coals should be priced not higher than 5 cents per ton, size for size, above the Fulton-Peoria coals and that unless this relationship is maintained the competitive opportunities of the producers in District No. 15 will be adversely effected; that the Chicago and Great Western Railroad purchases from code members in District No. 15 only nut coals, primarily 3" x 11/4"; that the coals of the Fulton-Peoria Subdistrict of District No. 10 for shipments to the Chicago and Great Western Railroad are priced f.o.b. the mine at \$1.75 per ton for mine run coal, subject to the provision that sizes in size groups 1 to 8, inclusive (which includes 3" x 11/4" coals) may be applied, at the option of the code member, on orders for railroad locomotive fuel specifying nut (3" x 18") modified mine run, proceedings instituted pursuant to sec- 1940, a hearing on the merits of the pe-

that on shipments of Fulton-Peoria coals of 1937. to the Chicago and Great Western Railroad the applicable division of freight rate is \$.625 per ton, which when added to the f.o.b. mine price of \$1.75 per ton results in a delivered price of \$2.375 per

The Director finds upon the basis of the record that the coals of District No. 15 which have heretofore moved to the Chicago and Great Western Railroad should be priced so as to permit a delivered price 5 cents per ton above the price of comparable coals purchased from the Fulton-Peoria Subdistrict of District No. 10, that is, at \$2.425 per ton.

The Director further finds that petitioner has made an adequate showing of actual or impending injury in the event that temporary relief is not granted and further finds that the granting of temporary relief, as hereinafter provided, will not unduly prejudice other interested parties in advance of a final determination in the matter.

Now, therefore, it is ordered, That pending final disposition of the aboveentitled matter, the Schedule of Effective Minimum Prices for District No. 15. For All Shipments Except Truck, be and the same hereby is amended, to become effective forthwith, as follows:

(1) The Railroad Locomotive Fuel Schedule-Part 3, Page 43, of said schedule is hereby modified by adding the following exception to the prices established for Production Group No. 2:

Exception. On shipments of railroad locomotive fuel (which includes all sizes except 3" x 0 stoker screenings with onehalf of fines removed and 2" x 0 screenings) to the Chicago and Great Western Railroad mines with Index Nos. 116 and 127 may absorb a portion of the applicable division of freight rate sufficient to enable said mines to deliver such coals at \$2.425 per ton; provided the maximum absorption shall not exceed 60 cents per

(2) The Railroad Locomotive Fuel Schedule-Part 3, Page 43, of said schedule is hereby modified by adding the following exception to the prices established for Production Group No. 3:

Exception. On shipments of railroad locomotive fuel (which includes all sizes of coals except 2" x 0 screenings) to the Chicago and Great Western Railroad mine with Index No. 13 may absorb a portion of the applicable division of freight rate sufficient to enable said mine to deliver such coals at \$2.425 per ton; provided the maximum absorption shall not exceed 60 cents per ton.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations governing practice and procedure before the Bituminous Coal Division in

mine run, or resultant mine run (6" x 0); | tion 4 II (d) of the Bituminous Coal Act

Dated: November 27, 1940.

H. A. GRAY, [SEAL] Director.

[F. R. Doc. 40-5190; Filed, November 28, 1940; 11:18 a. m.]

[Dockets Nos. A-63 to A-68]

PETITIONS OF CARRIER AND SON, P. AND G. COAL COMPANY, A. D. GRASSO, ELBA COAL COMPANY, CLARION COAL MINING COM-PANY, AND WOLF-O-LACK COAL COM-PANY FOR THE ESTABLISHMENT AND REVISION OF EFFECTIVE CLASSIFICA-TIONS AND MINIMUM PRICES FOR THE HARLAN, P. AND G., ELBA, DOCSMITH, AND LONE TREE MINES (MINE INDEX NOS. 197, 604, 599, 136, AND 603, DISTRICT No. 1) AND THE HERCULES MINE, AND FOR THE ESTABLISHMENT OF SPECIAL CLASSIFICA-TIONS AND EFFECTIVE MINIMUM PRICES FOR SO-CALLED "CROP" COAL PRODUCED BY THE PETITIONERS

ORDER GRANTING TEMPORARY RELIEF

The original petitioners in the above entitled matter prayed for issuance by the Director of preliminary or temporary and final orders revising the classifications and the effective minimum prices established for the coals of the Harlan, P. and G., Elba, Docsmith, Lone Tree, and Hercules mines (Mine Index Nos. 197, 604, 599, 136, 603, and 644, District No. 1): establishing "J" classifications and corresponding effective minimum prices for the coals of said mines, and establishing special classifications and effective minimum prices for so-called "crop" coals produced by the petitioners.

Pursuant to § 301.106 (d) of the Rules and Regulations Governing Practice and Procedure in 4 II (d) Proceedings, and after due notice to all persons entitled to receive the same, an informal conference concerning the prayers for temporary relief was held by the Division on October 11, 1940, and a full report thereof submitted to me.

Upon full consideration of all pleadings and the report of the conference, it was found that the issues involved were substantial; that District Boards 1, 2, and 3 were opposed to the granting of temporary relief; that other producers of District 1 were either likewise opposing or insistent that, if granted, such relief be extended to them; that no clear distinction had been drawn between the socalled "crop" coals and the "normal" coals of "good quality"; that no injury had been suffered by the petitioners or was imminent at the time; and, that by Order dated October 14, 1940, a final hearing upon said matters had been scheduled to commence October 28, 1940. In view of the foregoing an Order was entered on October 19, 1940, denying temporary relief at that time.

Pursuant to said Order of October 14,

tioners was held before a Trial Examiner. October 28 through October 31, 1940, at which hearing said petitioners appeared and introduced evidence in support of their respective contentions. District Board No. 1, District Board No. 2, District Board No. 3, District Board No. 6, Zacherl Coal Company, et al., Superior Cherry Run Coal Corporation, Hamler Coal Mining Company and Frank W. Albert participated in said hearing and introduced evidence. Said matters are now being considered by the Examiner who conducted the hearing, and his report thereon is now in course of prepara-

On November 4, 1940, the original petitioners filed petitions asking that the matter of temporary relief be reconsidered on the basis of the record made at said hearing before the Examiner. On November 8, 1940, District Board No. 1 filed its answer to the last named petitions, contesting their right to temporary relief and requesting that the Board be permitted to present briefs and oral argument in opposition to the granting of temporary relief.

The view which I take of this matter renders oral argument and the presentation of written briefs unnecessary. Furthermore, under the provisions of section 301.106 (g) of the Rules and Regulations referred to above, provision is made for the modification or termination of any order granting temporary relief in a 4 II (d) proceeding, which avenue is open to District Board No. 1 should it elect to pursue the matter any further.

I have reexamined the application for temporary relief in the light of the record made before the Examiner. It appears that petitioners are suffering loss, damage, and injury because of their inability to market the so-called "crop" coals produced at the mines involved in this proceeding; that a reasonable showing has been made to warrant a reduction in the classifications and minimum prices effective for such "crop" coals, pending the final disposition of the original petition in these proceedings; and that my Order dated October 19, 1940, should be modified accordingly.

Now, therefore, it is ordered, That, pending the final disposition of the original petitions in the above entitled proceedings, temporary relief be, and the same hereby is, granted to the extent that, commencing forthwith, the lowgrade "crop" coal produced by the strip mining method at the following mines and by the following code members, and which coal has not been mixed with other coal, be classified "H" in Size Group 3 and "K" in Size Groups 4 and 5 for shipment into all market areas, in the Schedule of Effective Minimum Prices for District No. 1 for all shipments except truck: Carrier and Son, Harlan #1 mine, Mine

titions filed herein by the original peti- and G. mine, Mine Index 604; A. D. | proceedings instituted pursuant to section Grasso (Grasso Coal Mining Company), Hercules mine, Mine Index 644; Elba Coal Company, Incorporated, Elba mine, Mine Index 599; Clarion Coal Mining Company, Docsmith mine, Mine Index 136; and Wolf-O-Lack Coal Company, Lone Tree mine, Mine Index 603; all situated in Clarion Township, Clarion County, Pennsylvania, District No. 1: and

It is further ordered. That, in shipments of low-grade "crop" coals at the classifications and minimum prices temporarily established by this Order, the following requirements shall be observed:

- 1. All orders, acknowledgments and invoices shall contain a complete description of said coal, and a statement that the same is low-grade, sub-standard 'crop" coal.
- 2. The code member or his agent selling such coal shall maintain a detailed record of:
- (a) Origin of such coal (from which cut, and what position in cut coal was mined)
- (b) Tonnage of crop coal removed from each cut
- (c) Height and nature or type of the overburden which was removed from
- (d) Physical and analytical qualities as loaded into transportation facilities
- (e) Such other pertinent data and information as may be further required from time to time by the Bituminous Coal Division, and
- (f) Shall file with District Board No. 1 and with the Bituminous Coal Division monthly reports containing all data required to be kept under this paragraph. Such reports shall be filed on or before the 15th of each month covering all shipments made during the preceding calendar month.

This order may be revoked upon a summary showing that any of its provisions have been violated by petitioners, or either of them. Complaint thereof may be made in accordance with the Rules and Regulations Governing Practice and Procedure in 4 II (d) Proceedings. Jurisdiction for this purpose is retained.

It is further ordered, That the code member or his agent shall have the burden of establishing or proving in any suitable proceedings that any coal sold under the classifications and at the minimum prices temporarily herein established is in fact coal falling within the scope of this Order.

In all other respects temporary relief is denied.

Notice is hereby given that all applications to stay, terminate, or modify the temporary relief granted herein may be filed pursuant to the Rules and Regulations Governing Practice and Procedure [F. R. Doc. 40-5185; Filed, November 28, 1940; Index 197; P. and G. Coal Company, P. before the Bituminous Coal Division in

4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 27, 1940.

[SEAL]

H. A. GRAY, Director.

[F. R. Doc. 40-5191; Filed, November 28, 1940; 11:13 a. m.]

[Docket Nos. A-80, A-275, A-282]

PETITIONS OF DISTRICT BOARD NO. 7, AND OF D. E. PITZENBARGER, A CODE MEMBER OF SAID DISTRICT, FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

#### ORDER OF CONSOLIDATION

Petitions, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named parties:

It is ordered, That the above entitled matters be consolidated for the purpose of hearing, and for such other purposes as the officer designated to preside at such hearing may deem appropriate.

It is further ordered, That the Order of the Director entered November 12, 1940, in said matters designated Docket Nos. A-80 and A-282 stand and be applicable and effective as of said date to said matter designated Docket No. A-275.

Dated: November 27, 1940.

[SEAL]

H. A. GRAY. Director.

(F. R. Doc. 40-5186; Filed, November 28, 1940; 11:12 a. m.]

[Dockets Nos. A-137, A-208, A-251]

PETITIONS OF DISTRICT BOARD 14 FOR THE ESTABLISHMENT OF PRICE CLASSIFICA-TIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETO-FORE CLASSIFIED AND PRICED PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

# ORDER CORRECTING CAPTION

The Director, on November 13, 1940, having issued an Order of Consolidation. Notice of and Order for Hearing and Granting Temporary Relief, in the above-entitled dockets, wherein the caption listed Dockets Nos. A-137 and A-208 and inadvertently omitted to list Docket No. A-251,

Now, therefore, it is ordered. That the caption in the aforesaid order be, and it hereby is, amended to list thereon Docket No. A-251.

Dated: November 27, 1940.

[SEAL]

H. A. GRAY, Director.

11:12 a. m.]

[Docket No. A-239]

DAWSON COAL COMPANY, A PRODUCER IN DISTRICT 3 FOR A CHANGE IN THE COORDI-NATION OF MINIMUM PRICES FOR SHIP-MENT INTO MARKET AREA NO. 9

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered. That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on December 18, 1940, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is jurther ordered, That W. A. Cuff or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance. take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 13, 1940.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of Dawson Coal Company, a Code Member in District No. 3 requesting a change in the coordination of the minimum prices established | nearer the consumer's plant than the pe- | the Office of the Bureau of Reclamation,

in Size Groups 5 to 10, inclusive, with the prices established in Size Groups 6, 7, and 8 of certain mines in District No. 6 for shipment to Market Area No. 9, and more particularly for shipment to Fostoria Glass Company at Moundsville, West Virginia.

Dated: November 27, 1940.

[SEAT.]

H. A. GRAY, Director.

[F. R. Doc. 40-5188; Filed, November 28, 1940; 11:12 a. m.]

[Docket No. A-239]

PETITION OF THE DAWSON COAL COMPANY, A CODE MEMBER IN DISTRICT NO. 3, FOR REVISION OF EFFECTIVE MINIMUM PRICES IN SIZE GROUPS 5, 6, 7, 8, 9 AND 10

MEMORANDUM OPINION AND ORDER CONCERN-ING PRAYER FOR TEMPORARY RELIEF

The petitioner above named has filed an original petition with the Bituminous Coal Division pursuant to section 4 II (d) of the Bituminous Coal Act, requesting a reduction of minimum prices for specified size groups, particularly for shipment to the Fostoria Glass Company in Market Area No. 9.

The compliance with petitioner's request for temporary relief pending the disposition of the petition, an informal conference, such as is provided for in the rules and regulations governing petitions filed under section 4 II (d), was held on November 14, 1940, upon notice to interested parties, and all interested parties were given full opportunity to express their views concerning the temporary relief prayed.

In addition to the petitioner, District Board No. 3, District Board No. 6, Glendale Gas Coal Company, and Hitchman Coal & Coke Company were represented at the conference.

The petitioner stated at the conference, as a basis for the temporary relief sought for sales to the Fostoria Glass Company, that for several months prior to July 1940 it had enjoyed a substantial portion of the business of the Fostoria Glass Company, but that in July 1940, the consumer began to test truck coals in order to determine which offered the greater value and would do so under minimum prices. Since July 1940 petitioner had been unable to sell coal to the Fostoria Glass Company because of the availability of lower priced truck coal.

Although the Dawson coal was admitted by petitioner to be superior, it was contended that the delivered differential was too great.

The representatives for District Board No. 6. Glendale Gas Coal Company and Hitchman Coal & Coke Company opposed the granting of temporary relief upon several grounds, one being that the Fostoria Glass Company is in the home market for mines of these companies since they are situated several miles

for its Dawson mine (Mine Index No. 46) | titioner. Hitchman Coal & Coke Company at present sells coal to the Glass Company. This coal is delivered by truck from the mine, asserted to be less than five miles away as compared with a distance of fifty miles to petitioner's mine.

On the other hand the representative of District Board No. 3 expressed himself in support of the petitioner's position, stating that he believed petitioner should be enabled to move coal to this plant which it has served in the past at a fair price.

The Director has carefully considered the request for temporary relief and the views expressed in connection therewith at the informal conference. The Director finds that petitioner has made no adequate showing of actual or impending injury in the event the temporary relief is not granted, and further finds that the granting of this relief would unduly prejudice other interested persons in advance of a hearing, and that no sufficiently clear showing has been made that petitioner is entitled to the relief prayed.

Now, therefore, it is ordered, That petioner's request for temporary relief is denied.

Dated: November 27, 1940.

[SEAL]

H. A. GRAY. Director.

[F. R. Doc. 40-5187; Filed, November 28, 1940; 11:12 a. m.]

[Docket No. 1466-FD]

APPLICATION OF LIGHTBODY COAL COMPANY FOR EXEMPTION

ORDER OF DENIAL

The applicant and counsel for the Bituminous Coal Division having entered into a stipulation dated November 19, 1940, wherein applicant has agreed and stipulated that its intrastate commerce in coal in Peoria, McLean, Tazewell and all other counties within the State of Illinois directly and substantially affect interstate commerce in coal within the meaning of sections 4 and 4-A, first paragraph, of the Bituminous Coal Act of 1937, and that the Director may enter an order denying the above entitled application for exemption on its merits on the basis of the facts agreed upon in said stipulation:

It is ordered, That the above application for exemption be and the same hereby is denied.

Dated: November 27, 1940.

[SEAL]

H. A. GRAY, Director.

[F. R. Doc. 40-5189; Filed, November 28, 1940; 11:13 a. m.]

Bureau of Reclamation.

MARIAS PROJECT, MONTANA ADVERTISEMENT OF LANDS FOR LEASE

NOVEMBER 22, 1940.

1. Sealed proposals will be received at

Washington, D. C., until 2 o'clock P. M., December 30, 1940, for the lease for grazing purposes of all or any tract or tracts of the land in the Marias and Lonesome Lake reservoir sites, shown on the accompanying list.

2. The lands will be leased for grazing purposes for a one-year period ending December 31, 1941, the lessee having an option to renew the lease from year to year, but not beyond December 31, 1945, provided the United States does not, by written notice, 90 days prior to the expiration of any annual period, notify the lessee that the lease cannot be renewed.

3. The bidder shall state in the proposal 1 (a) the legal description of such subdivisions or tracts which he proposes to lease, (b) the area in acres, and (c) the total annual rental price he proposes to pay. The bidder may make such stipulations as he may desire regarding combinations of tracts he is willing to accept.

4. Bids must be accompanied by a payment in full for the calendar year 1941. Funds so remitted by unsuccessful bidders will be returned on making of award. Subsequent payments for the purpose of exercising the yearly option renewals must be received in the Washington Office of the Bureau of Reclamation 30 days in advance of the termination of the lease and must be accompanied by a notice to the effect that the lessee desires to exercise such option. In case the necessary payment, accompanied by the notice of the lessee of his desire to exercise the option, is not made on or before the due date, as herein set forth, the lease and the right of occupancy of the lessee terminate at the expiration of the period for which rental has theretofore been paid, without further notice or action. All remittances should be in the form of certified check, bank draft, or money order, drawn in favor of the "Bureau of Reclamation."

5. Those desiring to bid should first consult a copy of lease form 7-523-A-G, which lease must be promptly executed by successful bidders before possession of the land is given, and which describes various rights reserved by the United States and other details not herein enumerated, to which the lessee must agree. Copies of the lease form may be inspected at the bulletin boards of the post offices at Big Sandy, Box Elder, Kinread, and Chester, Montana.

Envelopes containing bids must be sealed, marked and addressed as follows:

BID FOR LEASE OF LAND, MARIAS PROJECT, MONTANA, TO BE OPENED AT 2 P. M., Eastern Standard Time, December 30, 1940.

BUREAU OF RECLAMATION WASHINGTON, D. C.

H. W. BASHORE, Assistant Commissioner.

No. 232-2

MARIAS PROJECT, MONTANA LIST OF LANDS AVAILABLE FOR LEASE Part I-Marias Reservoir Site Description: T. 30 N., R. 4 E., M. P. M.: Sec. 14: Area in Acres 39.99 SW1/4 SE1/4 -----W 1/2 NW 1/4 -----80 00 SE 1/4 NE 1/4 ----- 

 SW1/4
 160,00

 N1/2SE1/4
 80.00

 SW1/4SE1/4
 40.00

 Sec. 19: Lot 1 29.00 Lot 3 \_\_\_\_\_ Lot 10 \_\_\_\_\_ Lot 11 \_\_\_\_ 5.00 34,00 Sec. 21: E1/2 NE1/4 E½ NE¼ NE¼ NE¼ Lot 1 Lot 2 Lot 3 Lot 9 7,00 Sec. 22: C. 22: SE¼ NE¼ NW¼ NW¼ NE¼ SW¼ NE¾ SE¼ Lot 6 Lot 7 40.00 7.00 Lot 8\_\_\_\_\_ 31.00 Sec. 23: ec. 23:
N½ NE¼
SW¼SW¼
Lot 12
Lot 13 45,00 Sec. 24: SE¼NW¼ NW¼SE¼ SE¼SE¼ Lot 1 Lot 4 40.00 40.00 35.00 SE14NE14 -----40 00 Lot 1
Lot 2
Lot 6
Lot 7
Lot 8 48.00 19.00 12.00 Lot 11\_\_\_\_\_ SE1/4 NE1/4 -----SE', SE',
Sec. 35: NE', NE',
Sec. 35: NE', NE',
Sec. 1: SW', SW',
Sec. 2: 40.00 N1/2SW1/4----SE¼SE¼ Lot 5 40.00 38,00 Lot 8\_\_\_\_\_ Sec. 3: NE%SW% N%SE% SE%SE% 40,00 80.00 Lot 3....Lot 4...Lot 5....Lot 5....Lot 5....Lot 5...Lot 5...Lo 41.00 Lot 6\_\_\_\_\_ NE 4 SW 4 ----7,00 8.00

40.00

Description—Continued.	Area in
T. 29 N., R. 5 E., M. P.M.—Con. Sec. 9: NE¼NE¼	Acres 40.00
Sec. 10:	40.00
W½NW¼	80.00
SE¼	160.00
Lot 4	40.00 33.00
Lot 6	24.00
Sec. 11:	
E½NE¼ W½SW¼	80,00
NE% SE%	40.00
LOT 5	3.00
Lot 11 Sec. 12: W½W½	42.00 160.00
Dec. 10:	100.00
NE1/4	160.00
W½NW¼_ SE¼NW¼	80.00 40.00
Lot 8	28.00
Sec. 14:	
NW¼ SW¼SE¼	160.00
LOU 2	40.00 32.00
Sec. 23: NE1/4	160.00
Sec. 24: S½NE¼	90.00
S1/2 NW 1/4	80.00
SE1/4	160.00
Lot 1 T. 30 N., R. 5 E., M. P. M.:	39.00
Sec. 28:	
SW1/4 NW1/4	40.00
NE 1/4 SW 1/4	40.00
SW ¼ SE ¼ Lot i	40.00 18.00
Lot 2	11.00
Lot 3 Sec. 29:	45.00
NE¼NE¼	40.00
S1/2 SE1/4	80.00
Lot 1	44,00
Lot 2	31.00
Lot 5	40.00
Lot 6	24.00
Lot 8 Sec. 30:	35.00
E%NE%	80.00
SE1/4 SW1/4	40.00
SE1/4	160.00
NE1/4 NE1/4	40.00
NW 1/4 NW 1/4	40.00
SE 1/4 SW 1/4	40.00
S½SE¼	80.00
NE1/4	160.00
SE1/4NW1/4	40.00
N <sup>1</sup> / <sub>2</sub> SE <sup>1</sup> / <sub>4</sub>	80.00
E1/4 NE1/4	80.00
SW1/4 NW1/4	40.00
W½SW¼ NE¼SE¼	80.00
Lot 1	40.00 28.00
Lot 8	31.00
Lot 10	39.00
SW4NW4	40.00
NW1/4SW1/4	40.00
SE¼SW¼	40.00
T. 29 N., R. 6 E., M. P. M.:	39.00
Sec. 7:	
NE¼SW¼	40.00
SE1/4Lot 3	160.00
Lot 4	38.00 38.00
Sec. 8: S1/2	320.00
Sec. 9: 8½ Sec. 10: 5½	320,00
Sec. 11: S½S½	320.00 160.00
Sec. 13:	200.00
S½N½	160.00
N½SW¼ N½SE¼	80.00
SW 1/4 SE1/4	40.00
Lot 1	39.00
Lot 3	6.00

<sup>&</sup>lt;sup>1</sup> Form of proposal filed as part of the original document.

Description—Continued. T. 29 N., R. 6 E., M. P. M.—Con.	Area in Acres	Description—Continued. T. 29 N., R. 7 E., M. P. M.—Con.	Area in Acres	Part II.—Lonesome Lake Reservoi	ir Site Area in
Sec. 14:	00.00	Sec. 19: S½ SE¼		Description: T. 29 N., R. 11 E., M. P. M.:	Acres
N½NE¼		Sec. 20: SE¼NE¼ Sec. 21:	20.00	Sec. 3: E½SW¼	80.00
Lot 1	_ 36.00	SW1/4NW1/4	40.00	Sec. 9: SE1/4	
Lot 2	34.00	NW1/4SW1/4	40.00	Sec. 10: NE <sup>1</sup> / <sub>4</sub>	160 00
Sec. 15: NE¼NE¼	40.00	S½SE¼ Lot 1		NE 1/4 NW 1/4	
W½SE¼	80.00	Lot 2		S½NW¼	80.00
Lot 1		Lot 4		Sec. 11:	320.00
Lot 10		Lot 6		SW 1/4 NE 1/4	
Sec. 17:	00.00	Lot 9		NW1/4	
N½NE¼	80.00	Lot 10		Sec. 12:	020.00
Lot 5	34.00	Lot 11		NW1/4SW1/4	
Lot 6	24.00	Lot 14	_ 10.00	S½S½ Sec. 13:	160.00
Lot 7		Lot 15	_ 21.00	N½	_ 320.00
Sec. 18:		Sec. 22: N½NE¼	_ 80.00	SW1/4	160.00
N½NE¼		NW1/4		Sec. 14:	320.00
SE¼NE¼ Lot 1		NW1/4SW1/4	40.00	N½SW¼	80.00
Lot 5	_ 30.00	Sec. 24: E½SE¼ Sec. 25:	_ 80.00	SE1/4SW1/4	
Sec. 19:	_ 80.00	W1/2 NE1/4	80.00	NW ¼ SE ¼	
E½SW¼	- March 201	E½NW¼	_ 80.00	Sec. 15: All	
SE 1/4 SE 1/4	_ 40.00	NE¼SW¼		Sec. 21: N½N½	160.00
Lot 5	_ 39.00	S½SW¼ N½SE¼	80.00	Sec. 22: NW ¼ NW ¼ Sec. 24:	40.00
Lot 6		SW1/4SE1/4	40.00	NE1/4	
Lot 8	_ 39.00	Lot 1		N½NW¼	
Sec. 20: E½NE¼	_ 80.00	Lot 2 Sec. 26: S½ N½		SE¼NW¼	
Sec. 21:	00.00	Sec. 28:	_ 100.00	T. 29 N., R. 12 E., M. P. M.:	00.00
S½NE¼	80.00	N½ NE¼		Sec. 1: W1/2	
N½SE¼		NW1/4SW1/4 S1/2SW1/4		Sec. 2: All Sec. 3:	640.00
Lot 4	_ 33.00	S½SE¼		SE¼SW¼	40.00
Sec. 22:	100 00	Lot 4	_ 31.00	SW1/4SE1/4	40.00
NE¼ NW¼	40.00	Lot 5		E½SE¼ Sec. 7: S½S½	
S1/2 NW 1/4	80.00	Lot 9		Sec. 8:	100.00
N½S½	_ 160.00	Lot 10	_ 40.00	NE¼	160.00
Sec. 23:	90.00	Lot 11		NE¼NW¼	40.00 80.00
S½NE¼NW¼	160.00	Sec. 34:	2 09.00	S½	_ 320.00
Lot 2	_ 30.00	NW1/4NW1/4		Sec. 9:	
Lot 3	_ 40.00	Lot 1		NW1/4	320 00
Sec. 24: 8½8½	160 00	Lot 3	34.00	Sec. 10: All	640.00
Lot 4	43.00	Sec. 35:		Sec. 11: All	640.00
Lot 5	_ 29.00	W½NW¼		Sec. 12: W½NW¼	80.00
Lot 10		SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>		W½NE¼	80.00
T. 29 N., R. 7 E., M. P. M.:		Lot 1	_ 40.00	W1/2	320.00
Sec. 7:		Lot 2		Sec. 15: All Sec. 17:	040.00
E½NE¼	_ 80.00	Lot 7		N½	
SE¼SW¼SE¼	160.00	T. 29 N., R. 8 E., M. P. M.:		W½SW¼	
Sec. 8:		Sec. 17:		SE¼SW¼NE¼SE¼	
NW1/4	_ 160.00	N <sup>1</sup> / <sub>2</sub> SE <sup>1</sup> / <sub>4</sub>	_ 160.00	Sec. 18:	
W½SW¼	640.00	SW1/4 SE1/4	_ 40.00	NE¼	
Sec. 15:		Sec. 18: S½SE¼		N½NW¼	40.00
NE1/4 NE1/4		Sec. 19:	_ 80.00	S½	320.00
S½NE¼		N½NE¼	80.00	Sec. 19: All	640.00
S½	_ 320.00	SE1/4 SE1/4	_ 40.00	Sec. 20: N <sup>1</sup> / <sub>2</sub>	320,00
Sec. 17:	45.00	Lot 1		N1/2 SW1/4	80.00
Lot 3		Lot 3		SW1/4SW1/4	40.00
Lot 4		Lot 4	_ 17.00	N½SE¼	80.00
Lot 5	_ 14.00	Lot 6		Sec. 21:	
Lot 8	15.00	Lot 7		N½	
Lot 9		Lot 13	_ 22.00	N½SE¼	80 00
Lot 14	3.00	Lot 14	39.00	SW1/4 SE1/4	40.00
Lot 15		SE¼ NE¼	_ 40.00	Sec. 22: All	640.00
Lot 17		NW1/4NW1/4	_ 40.00	Sec. 23: W½NW¼	
Sec. 18:		S½SW¼		Sec. 24: SE¼SE¼ Sec. 25:	40.00
N½NE¼		Lot 5		NE1/4 NE1/4	40.00
SW1/4 NE1/4 E1/2 NW1/4	- 40.00 - 80.00	Lot 6	_ 36.00	S½NE¼	80.00
NE1/4SW1/4	40.00	Lot 7		Sec. 26: NE½SW½	40.00
NW 1/4 SE 1/4	40.00	Lot 8Sec. 30:	- 44.00	81/2SW1/4	80.00
Lot 2		NE1/4		N½SE¼	80.00
Lot 4	38.00	SE1/4NW1/4		Sec. 27:	80.00
Lot 5		E½SW¼		N½NE¼	
Lot 6		Sec. 31:		S½SE¼	80.00
Lot 8	4.00	NE¼NW¼		Sec. 28:	80.00
Lot 9	35.00	Lot 1		W½NE¼	
100 10	00.00			10.00	

pescription—Con.	
T. 29 N., R. 12 E., M. P. M.—Con.	Area in
Sec. 28—Con.	Acres
W1/2SE1/4	80.00
SE1/4 SE1/4	40.00
Sec. 29:	WAS STREET
E1/2 NE1/4	80.00
N1/2 NW1/4	80.00
SE1/4 NW1/4	40.00
E1/2SW1/4	80.00
SE1/4	160.00
Sec. 30:	
NE¼	160.00
N1/2 NW1/4	80.00
E½SE¼	80.00
Sec. 31:	
E½NE¼	80,00
NE1/4 SE1/4	40.00
Sec. 32:	
N1/2 NE1/4	80.00
SW1/4NW1/4	40.00
N%8W%	80.00
SE1/4	160.00
Sec. 33:	
N½	320.00
N%S1/2	160.00
SW 1/4 SW 1/4	40.00
Sec. 34:	1000000
N1/2	320.00
NW1/4SW1/4	40,00
T. 30 N., R. 12 E., M. P. M.:	
Sec. 35: S1/SE1/4	80.00
T. 29 N., R. 13 E., M. P. M.:	0100000
Sec. 19: SW1/4SW1/4	40.00
Sec. 30: W1/2NW1/4	80.00

BOWMAN RESERVOIR SITE, NORTH DAKOTA

[F. R. Doc. 40-5173; Filed, November 28, 1940;

9:31 a. m.]

ADVERTISEMENT OF LANDS FOR LEASE NOVEMBER 22, 1940.

1. Sealed proposals will be received at the office of the Bureau of Reclamation, Washington, D. C., until 2 o'clock, P. M., December 30, 1940, for the lease for grazing purposes of all or any tract or tracts of the land withdrawn for the Bowman Reservoir Site in North Dakota, as shown on the accompanying list.

2. The lands will be leased for grazing purposes for a one-year period ending December 31, 1941, the lessee having an option to renew the lease from year to year, but not beyond December 31, 1945, provided the United States does not, by written notice, 90 days prior to the expiration of any annual period, notify the lessee that the lease cannot be renewed.

3. The bidder shall state in the proposal 1 (a) the legal description of such subdivisions or tracts which he proposes to lease, (b) the area in acres, and (c) the total annual rental price he proposes to pay. The bidder may make such stipulations as he may desire regarding combinations of tracts he is willing to accept.

4. Bids must be accompanied by a payment in full for the calendar year 1941. Funds so remitted by unsuccessful bidders will be returned on making of award. Subsequent payments for the purpose of exercising the yearly option renewals must be received in the Washington Office of the Bureau of Reclamation 30 days in advance of the termination of the lease and must be accom- | DEPARTMENT OF AGRICULTURE. panied by a notice to the effect that the lessee desires to exercise such option. In case the necessary payment, accompanied by the notice of the lessee of his desire to exercise the option, is not made on or before the due date, as herein set forth, the lease and the right of occupancy of the lessee terminate at the expiration of the period for which rental has theretofore been paid, without further notice or action. All remittances should be in the form of certified check, bank draft, or money order, drawn in favor of the "Bureau of Reclamation."

5. Those desiring to bid should first consult a copy of lease form 7-523-A-G, which lease must be promptly executed by successful bidders before possession of land is given, and which describes various rights reserved by the United States, and other details not herein enumerated, to which the lessee must agree. Copies of the lease form may be inspected at the bulletin boards of the post offices at Bowman and Scranton, North Dakota.

6. Envelopes containing bids must be sealed, marked and addressed as follows:

BID FOR LEASE OF LAND, BOWMAN RESERVOIR SITE, NORTH DAKOTA, TO BE OPENED AT 2 P. M., Eastern Standard Time, December 30, 1940.

> BUREAU OF RECLAMATION WASHINGTON, D. C.

> > H. W. BASHORE, Assistant Commissioner.

BOWMAN RESERVOIR SITE, NORTH DAKOTA

LIST OF LANDS AVAILABLE FOR LEASE

escription:	
T. 129 N., R. 101 W., 5th Prin. Mer.:	
Sec. 11: Area in	acres
SW1/4	160
W1/2 SE1/4	80
Sec. 13:	
SW1/4NW1/4	40
SW1/4	160
S½SE¼	80
Sec. 14:	
N½	320
N½SW¼	80
SE1/4SW1/4	40
SE1/4	160
Sec. 15:	
S½NW¼	80
S1/2 NE1/4	80
N1/2SW1/4	80
N½SE¼	80
Sec. 23:	
N½NE¼	80
SE1/4 NE1/4	40
NE1/4 NW1/4	40
SE1/4SW1/4	40
SE1/4	160
Sec. 24: All	640
Sec. 25:	
N½NW¼	80
SW1/4NW1/4	40
NW1/4SW1/4	40
Sec. 26:	
NE1/4	160
NE1/4 NW 1/4	40
S1/2 NW1/4	80
SE1/4	160
Sec. 35:	
W1/2 NE1/4	80
S1/2NW1/4	80
N½SW¼	80

<sup>1</sup> Form of proposal filed as part of the [F. R. Doc. 40-5174; Filed, November 28, 1940; 9:31 a. m.]

Surplus Marketing Administration.

DETERMINATION OF THE SECRETARY OF AGRICULTURE APPROVED BY THE PRESI-DENT OF THE UNITED STATES WITH RE-SPECT TO AN ORDER REGULATING THE HAN-DLING OF MILK IN THE SHREVEPORT, LOUISIANA, MARKETING AREA

Whereas the Secretary of Agriculture, pursuant to the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, having reason to believe that the execution of a tentatively approved marketing agreement and the issuance of an order, both of which regulate the handling of milk in the Shreveport, Louisiana, Marketing Area, would tend to effectuate the declared policy of the act, gave, on the 9th day of August 1940, notice 1 of a public hearing to be held on the 26th day of August 1940, at Shreveport, Louisiana, on a proposed marketing agreement and a proposed order, and on August 26 and 27, 1940, at said place conducted a public hearing at which all interested parties were afforded an opportunity to be heard on the said proposals; and

Whereas after said hearing and after the tentative approval by the Secretary, on the 15th day of October 1940, of a marketing agreement, handlers of more than fifty (50) per centum of the volume of milk covered by such proposed order, which was marketed within the Shreveport, Louisiana, Marketing Area, refused or failed to sign such tentatively approved marketing agreement relating to milk:

Now, therefore, the Secretary of Agriculture, pursuant to the power and authority vested in him by said act, hereby determines:

- (1) That the refusal or failure of said handlers to sign said tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of the act:
- (2) That the issuance of the proposed order is the only practical means, pursuant to said policy, of advancing the interest of producers of milk which is produced for sale in said area; and
- (3) That the issuance of the proposed order is approved or favored by twothirds of the producers who participated in a referendum conducted by the Secretary and who, during the month of July 1940, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area.

In witness whereof, Paul H. Appleby, Acting Secretary of Agriculture, has executed this determination in duplicate, and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed hereto, in the City

original document.

<sup>15</sup> F.R. 2808.

of Washington, District of Columbia, this | FEDERAL TRADE COMMISSION. 15th day of November 1940.

PAUL H. APPLEBY, [SEAL] Acting Secretary of Agriculture. Approved:

FRANKLIN D ROOSEVELT, President of the United States.

NOVEMBER 18, 1940.

[F. R. Doc. 40-5192; Filed, November 28, 1940; 11:20 a. m.l

PROCLAMATION MADE BY THE SECRETARY OF AGRICULTURE CONCERNING THE BASE PE-RIOD TO BE USED IN CONNECTION WITH THE EXECUTION OF A MARKETING AGREE-MENT AND THE ISSUANCE OF AN ORDER REGULATING THE HANDLING OF MILK IN THE SHREVEPORT, LOUISIANA, MARKETING AREA

Pursuant to the powers conferred upon the Secretary of Agriculture by the terms and provisions of Public Act. No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture hereby finds and proclaims that, in connection with the execution of a marketing agreement and the issuance of an order regulating the handling of milk in the Shreveport, Louisiana, marketing area,1 the purchasing power of such milk during the base period August 1909-July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such milk can be satisfactorily determined from available statistics in the Department of Agriculture for the period August 1922-July 1929; and the period August 1922-July 1929 is hereby found and proclaimed to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the Shreveport, Louisiana, marketing area, for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of milk in that area.

In witness whereof, the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 28th day of November 1940

[SEAL]

CLAUDE R. WICKARD, Secretary of Agriculture.

[F. R. Doc. 40-5193; Filed, November 28, 1940; 11:20 a. m.]

[Docket No. 3956]

IN THE MATTER OF H & D SALES COMPANY, A CORPORATION, AND NATHAN J. HUBBARD AND ARTHUR EASTON DAVIS, INDIVIDU-ALLY, AND AS OFFICERS OF H & D SALES COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIX-ING TIME AND PLACE FOR TAKING TESTI-

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23d day of November, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That W. W. Sheppard, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, December 4, 1940, at two o'clock in the afternoon of that day (central standard time) in Room 214, Federal Building, Knoxville, Tennessee.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 40-5176; Filed, November 28, 1940; 11:09 a. m.]

#### [Docket No. 4114]

IN THE MATTER OF JOE B. HILL AND C. O. McAfee, Individuals and Co-partners, TRADING AS MCAFEE CANDY COMPANY, AND LIBERTY CANDY COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIX-ING TIME AND PLACE FOR TAKING TESTI-

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23d day of November, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section

It is ordered, That William W. Sheppard, a Trial Examiner of this Commis-

sion, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, December 5, 1940, at two o'clock in the afternoon of that day (central standard time) in Room 324, Old Post Office Building, Atlanta, Georgia.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 40-5177; Filed, November 28, 1940; 11:09 a. m.l

#### [Docket No. 4244]

IN THE MATTER OF JESSE W. ALLRED AND ROBERT A. ALLRED, INDIVIDUALLY AND AS CO-PARTNERS TRADING UNDER THE NAME OF ALLRED BROTHERS CANDY CO.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TES-TIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23d day of November, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That William W. Sheppard, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 2, 1940, at eleven o'clock in the forenoon of that day (eastern standard time) in the Federal Court Room, Federal Building, Charlotte, North Carolina.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

F. R. Doc. 40-5178; Filed, November 28, 1940; 11:09 a. m.l

<sup>&</sup>lt;sup>1</sup> See page 4701.

[Docket No. 4252]

IN THE MATTER OF H. M. WILLIAMS, IN-DIVIDUALLY AND TRADING AS WILLIAMS CANDY COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTI-MONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23d day of November, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41).

It is ordered, That William W. Sheppard, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, December 3, 1940, at eleven o'clock in the forencon of that day (eastern standard time) in the Federal Court Room, Federal Building, Charlotte, North Carolina.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 40-5179; Filed, November 28, 1940; 11:09 a. m.]

[Docket No. 4256]

IN THE MATTER OF J. T. TARLTON, INDI-VIDUALLY AND TRADING AS J. T. TARLTON CANDY COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23d day of November, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pur-

suant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That William W. Sheppard, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 2, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in the Federal Court Room, Federal Building, Charlotte, North Carolina.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 40-5180; Filed November 28, 1940; 11:10 a, m.]

[Docket No. 4266]

IN THE MATTER OF HUGH C. MITCHUM, AND CARL B. TUCKER, INDIVIDUALLY AND TRAD-ING AS SOUTHERN CANDY COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23d day of November, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That William W. Sheppard, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, December 3, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in the Federal Court

Room, Federal Building, Charlotte, North Carolina.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 40-5181; Filed, November 28, 1940; 11:10 a. m.]

[Docket No. 4296]

IN THE MATTER OF HARRY YATES, TRADING AS CUMBERLAND CANDY COMPANY AND DIXIE CANDY COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23d day of November, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That William W. Sheppard, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law.

It is jurther ordered, That the taking of testimony in this proceeding begin on Monday, December 2, 1940, at two o'clock in the afternoon of that day (eastern standard time) in the Federal Court Room, Federal Building, Charlotte, North Carolina.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 40-5182; Filed, November 28, 1940; 11:10 a. m.]

